

STEFANIE LEE

IBLA 97-502

Decided October 14, 1999

Appeal from a decision of the Bakersfield District Office, Bureau of Land Management, California, canceling a horse adoption agreement. Freeze Mark # 92209307.

Affirmed.

1. Wild Free-Roaming Horses and Burros Act

A BLM decision canceling a private maintenance and care agreement and repossessing a wild horse is properly affirmed where the evidence establishes that the adopter violated the adoption agreement by transferring the horse to another party for more than 30 days without notifying the authorized officer.

2. Evidence: Sufficiency--Wild Free-Roaming Horses and Burros Act

When BLM cancels a Private Maintenance and Care Agreement, the adopter has the burden of establishing that BLM's action was improper.

APPEARANCES: Stefanie Lee, pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Stefanie Lee has appealed from a June 11, 1997, decision by the Bakersfield District Office, Bureau of Land Management (BLM), California, canceling a private maintenance and care agreement (PMACA) and repossessing a horse with Freeze Mark # 96209307 for the stated reason that Lee had failed to comply with the terms and conditions of the PMACA.

On May 11, 1996, Lee adopted two wild horses, # 92209166 and # 96209307 during an official BLM wild horse adoption. The only horse at issue in this appeal is # 96209307 (# 9307). On June 5, 1997, two BLM wild horse specialists performed a pre-title compliance examination. They found that horse # 9307 was not on Lee's property. Lee told the inspectors that she had moved horse # 9307 to a facility owned by Coleen Amondson. The BLM specialists went to Amondson's property and found horse # 9307 in an improper electrified fence enclosure. Amondson told the BLM specialists that she had been keeping the horse for about 4 months and would keep it until Lee paid a debt she owed to Amondson. BLM repossessed the animal

for unauthorized transfer and enclosure violations and, on June 11, 1997, issued its decision canceling the PMACA.

In her statement of reasons, Lee states that she let her friend borrow horse # 9307 in February or early March 1997. Lee asserts that she made several attempts to retrieve the horse but was unsuccessful. Lee asserts that she fully intended to comply with the PMACA, but due to circumstances beyond her control was unable to retrieve the horse.

One of the terms of adoption in the PMACA is that "[a]dopters shall not transfer animals for more than thirty days to another location or to the care of another individual without the prior approval of the authorized officer." Under 43 C.F.R. § 4770.1 and 43 C.F.R. § 4770.2(b) the violation of a term or condition of a PMACA renders the agreement subject to cancellation and the animal subject to repossession by BLM.

[1] The Wild Free-Roaming Horses and Burros Act of 1971, as amended, 16 U.S.C. § 1333(b)(2)(B) (1994), authorizes the Secretary of the Interior to place wild horses with qualified applicants who can assure humane treatment and care. See 43 C.F.R. Subpart 4750. Title to horses placed in private care remains with the Government for a minimum of 1 year after placement and execution of the agreement and thereafter until BLM issues a certificate of title. 16 U.S.C. § 1333(c) (1994); 43 C.F.R. § 4750.4-1(a) and 4750.5.

The essential facts as documented in BLM inspection reports are not in dispute. (File Tabs I, J.) Lee admits she violated the PMACA in removing the horse to Amondson's property without notifying BLM. (File Tab C.) This transfer was a violation of the PMACA and under the regulations properly resulted in BLM's cancellation of the PMACA and repossession of horse # 9307. See Larry Vanden Heuvel, 145 IBLA 309 (1998); Larry Pulley, 131 IBLA 7 (1994); Mark L. Williams, 130 IBLA 45 (1994).

[2] When BLM cancels an Agreement, the adopter has the burden of establishing that such action was improper. Larry Vanden Heuvel, supra at 315, and cases there cited. Lee has not met this burden.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is affirmed.

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Will A. Irwin  
Administrative Judge

I concur:

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James L. Burski  
Administrative Judge